

EXHIBIT F



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JORDAN A. LaVINE
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August 18, 2015

By Email

David B. Cupar
600 Superior Avenue East, Suite 2100
Cleveland, OH 44114
dcupar@mcdonaldhopkins.com

Re: Use of "Ancestry" Trademarks by DNA Diagnostic Center, Inc.

Dear Mr. Cupar:

As you know, we represent Ancestry.com Operations Inc. ("Ancestry"). This concerns our recent correspondence, wherein your client DNA Diagnostic Center Inc. ("DDC") declined to agree to abandon its new trademark application for the mark *AncestryGPS*. We further note that on August 3, 2015, in response to the U.S. Patent and Trademark Office's determination that there was a likelihood of confusion between Ancestry's registered marks and the *AncestryGPS* mark, DDC agreed to narrow the scope of goods and services in its pending trademark application, but otherwise argued that there is no likelihood of confusion between its mark and Ancestry's marks. Ancestry will oppose the application for *AncestryGPS* if and when it is published for opposition.

Moreover, in the course of investigating this matter, we uncovered a significant amount of actual consumer confusion that is resulting from your client's use of *AncestryDNA* and *AncestrybyDNA*. If you recall, your client previously agreed that it would not use the mark *AncestryDNA*. Notwithstanding that agreement, your client has repeatedly breached that agreement and is profiting from the consumer confusion resulting from its use of the mark. See enclosed evidence of actual confusion.

It is clear to us that what is causing the confusion is your client's continued use of *Ancestry* as a trademark.

As you know, Ancestry owns a registration on the Principal Register for its *Ancestry* trademark, Reg. No. 1,577,711, issued in 1990, and its use of the mark has continuously expanded since 1990. Ancestry is now the largest genealogy company in the world, with a large network of genealogical and historical record websites focused on the United States and

David B. Cupar
August 18, 2015
Page 2

numerous foreign countries. Ancestry also develops and markets genealogical software and offers a wide array of genealogical related services.

Moreover, Ancestry now owns a family of trademarks built upon the *Ancestry* brand. For example Ancestry owns the following active trademark registrations in the United States:

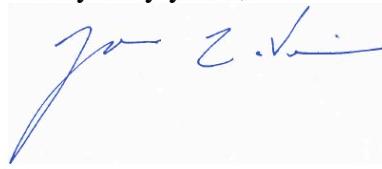
Reg. No. 3,566,509 for *Ancestry.com*
Reg. No. 3,852,700 for *Ancestry.com*
Reg. No. 3,568,993 for *Ancestry.com*
Reg. No. 3,495,384 for *Ancestry Publishing*
Reg. No. 4,695,096 for *AncestryDNA*
Reg. No. 4,773,164 for *AncestryHealth*
Reg. No. 4,280,444 for *AncestryDNA*
Reg. No. 4,717,504 for *Ancestry*
Reg. No. 4,205,135 for *Ancestry.ca*
Reg. No. 4,205,136 for *Ancestry.co.UK*
Reg. No. 4,201,715 for *Ancestry.com.AU*

DDC's use of *AncestryDNA* and *AncestrybyDNA* is causing consumer confusion because of Ancestry's pre-existing rights in the *Ancestry* mark. Given the evidence of actual confusion we uncovered, and DDC's expanded use of the *AncestrybyDNA* mark, we do not believe that the parties' uses of the marks *AncestryDNA* and *AncestrybyDNA* can continue to coexist. We do not believe that any reasonable person reviewing the enclosed evidence would disagree.

Ancestry does not initiate litigation without first seeking an amicable resolution. Please note, however, that Ancestry's patience with your client's repeated and escalating infringement has run out. Accordingly, if we do not receive your client's agreement to fully transition to trademarks that do not contain Ancestry's registered *Ancestry* trademark, Ancestry will have no choice but to consider taking actions to protect its valuable trademark rights. These actions would include initiating a Federal lawsuit for trademark infringement, unfair competition, and breach of contract, and seeking your client's profits that have resulted from it trading on Ancestry's goodwill and reputation and your client's breach of the prior agreement between the parties.

Please let us hear from you regarding your client's intentions by no later than August 28, 2015.

Very truly yours,



Jordan A. LaVine

Enclosures

Clendening, Eric

From: Arena, Alexis
Sent: Monday, November 23, 2015 5:37 PM
To: Clendening, Eric
Subject: FW: AncestryDNA

From: Arena, Alexis
Sent: Wednesday, January 21, 2015 2:14 PM
To: 'Cupar, David B.'
Cc: LaVine, Jordan
Subject: re: AncestryDNA

David,

Thanks for your response. I have included screenshots of the ads below:

http://deal-finder.co.uk/groupon/53-off-ancestry-dna-test-kent-from-groupon-mycitydeal P - C 53% Off Ancestry DNA Test... X

File Edit View Favorites Tools Help

Deal Finder

Groupon Deals UK and IE

HOME GROUP DEALS STORES WITH CODES

Next →

53% Off Ancestry DNA Test – Kent from Groupon MyCityDeal

Posted on December 12, 2014

Groupon MyCityDeal Offer Details – 53% Off Ancestry DNA Test – Kent

GROUPON

53% Off Ancestry DNA Test – Kent from Groupon MyCityDeal

Offer Details: Ancestry DNA Test: Male (£79) or Female (£99) with DNA Diagnostics Centre (Up to 53% Off)

This Offer expired on: 20-12-2014

[View Offer](#)

This entry was posted in Daily Deals by admin. Bookmark the [permalink](#).

http://www.groupon.co.uk/deals/milton-keynes/dna-diagnostics-centre/53-off-ancestry-dna-test-kent P - C DNA Diagnostics Centre N... X

File Favorites Tools Help

Hotel Blackwell Grange Hotel Darlington	Shankey Hairdressing (54% Off) Jason Shankey Aesthetics Belfast Belfast	Rejuvalase beauty Belfast
From £19.90	£54 £25	£17

Ancestry DNA Test: Male (£79) or Female (£99) with DNA Diagnostics Centre (Up to 53% Off)

FROM
£79

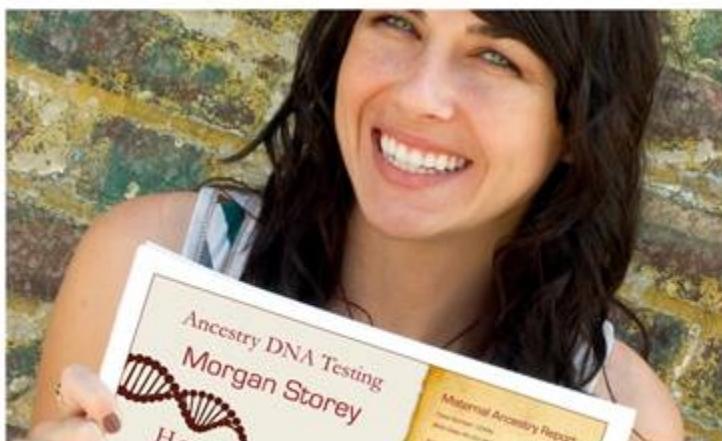
NO LONGER AVAILABLE

VALUE DISCOUNT YOU SAVE
£169 53% £90

[GIVE AS A GIFT](#)

107 bought

SHARE THIS DEAL:



Both ads use the headline “Ancestry DNA Test.” Both ads feature a woman displaying a publication with the headline “Ancestry DNA Testing.” Only the ad headline is displayed to consumers before they click on the full link. Consumers are likely to confuse this ad for “Ancestry DNA Test” with the similar products and services offered by AncestryDNA. This use of “Ancestry DNA” is even more confusing than your client’s prior use of the mark, because your client previously had the same female model holding a publication entitled “Certificate of Ancestry *byDNA*,” but now the publication is entitled “Ancestry DNA Testing.”

We strongly object to your client's use of the trademark "Ancestry DNA" and the ad headline "Ancestry DNA Test" where, as here, that use is likely to cause consumer confusion. The phrase "Ancestry DNA" is most prominent in these advertisements. "DNA Diagnostics Centre" is displayed in the fine print and "AncestrybyDNA" is not displayed anywhere.

Alexis Arena
Flaster/Greenberg PC

4 Penn Center, 1600 JFK Blvd., 2nd Floor, Philadelphia, PA 19103
PHONE: 215-279-9908 FAX: 215-279-9394

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From: Cupar, David B. [<mailto:dcupar@mcdonaldhopkins.com>]

Sent: Wednesday, January 07, 2015 5:32 PM

To: Arena, Alexis

Subject: RE: AncestryDNA

Alexis,

Thank you for your correspondence below. Both my client and I were out for the holiday at the end of the year. I don't see anything attached to the link of the deal-finder.co.uk that you identified.

As for the Groupon link, I don't see any use of "AncestryDNA" as you state in your email. Instead, Groupon is using common terms in an ordinary sentence including "[c]hoose from the following options for a DNA ancestry test," "explorers will learn all about their male or female lineage with this DNA test," and "Ancestry DNA Test: Male (79) or Female (99) with DNA Diagnostics Centre (Up to 53% off)." Therefore, the only use Groupon includes in its advertisement is NOT a trademark use but rather common words in a sentence.

Because we don't see any trademark use, let alone any violation, there is no issue here.

Regards,
Dave

David B. Cupar
Member

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www.mcdonaldhopkins.com

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From: Arena, Alexis [<mailto:Alexis.Arena@flastergreenberg.com>]

Sent: Friday, December 12, 2014 2:51 PM

To: Cupar, David B.

Cc: LaVine, Jordan

Subject: RE: AncestryDNA

Importance: High

David,

This same issue has come up again. AncestrybyDNA agreed below: "not to use AncestryDNA for the near term as you requested," however, the ads are still being displayed in the UK using the mark "AncestryDNA." Ancestry.com Operations Inc. owns a registration for "AncestryDNA" in the European Community (Reg. No. 011855988, issued Oct. 29, 2013). Please confirm that AncestrybyDNA will cease use of this mark in the UK.

<http://deal-finder.co.uk/53-off-ancestry-dna-test-n-bucks-bedfordshire-from-groupon-mycitydeal/>

http://www.groupon.co.uk/deals/milton_keynes/dna-diagnosticscentre/51883342?CID=UK_AFF_1047_10_1_1&utm_source=awn&utm_medium=afl&utm_campaign=14121&utm_content=aff_1&nlp

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From: Cupar, David B. [<mailto:dcupar@mcdonaldhopkins.com>]

Sent: Friday, September 14, 2012 4:57 PM

To: Arena, Alexis

Subject: RE: AncestryDNA

Thanks Alexis. I received your message today as well. I'll speak with my client and get back to you next week about this.

Dave

David B. Cupar
Member

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F: 216.348.5474
dcupar@mcdonaldhopkins.com
www.mcdonaldhopkins.com

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Cleveland, OH 44114



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From: Arena, Alexis [<mailto:Alexis.Arena@flastergreenberg.com>]

Sent: Wednesday, September 12, 2012 12:20 PM

To: Cupar, David B.

Subject: RE: AncestryDNA

Dear Mr. Cupar,

I am responding to your August 10 email below, which states that for the purpose of short-term compromise, DDC agrees not to use "AncestryDNA" as requested. We appreciate this agreement by DDC. However, we are continuing to see LivingSocial advertisements like this one, which appear to have been published after the date of your email:



deals

esc



AncestryDNA

AncestrybyDNA Test

\$97

b

[share](#) 2 | [Tweet](#) 0 | [email](#)

Want it for free? Buy first, then share a special link. If three friends buy, yours is free!

50%
SAVINGS3
PURCHASED[description](#) [fine print](#)

Everyone has a story, even if we don't know exactly how it begins. Uncover the early chapters of your story from [AncestrybyDNA.com](#): Pay \$97 (regularly \$195) for an AncestrybyDNA test, with results from the inside of your cheek and send it in for analysis -- your DNA sample will be tested for your complete genetic makeup based on your chromosomes, giving you results of your full ancestry, instead of just simple markers on your direct maternal and paternal lines. Your ancestral origins will be quantified in percentages across four population groups: Indigenous American, European, East Asian, and African. With a personalized certificate and a detailed manual to explain and interpret your results available online, you will have all the information you need to where you come from -- and possibly be able to close the book on some family mysteries.

PAID VALUE DOES NOT EXPIRE
PROMOTIONAL VALUE EXPIRES ON MARCH 19, 2013

<http://www.livingsocial.com/cities/41-cleveland-westside/deals/444668-ancestrybydna-test>

We believe that this ad is likely to continue to confuse consumers into assuming an affiliation with "AncestryDNA" that does not exist. Please confirm that steps will be taken to cease this use of the exact mark "AncestryDNA" in all advertising on LivingSocial.

Very truly yours,

**Alexis Arena
Flaster/Greenberg PC**

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From: Cupar, David B. [<mailto:dcupar@mcdonaldhopkins.com>]

Sent: Friday, August 10, 2012 3:17 PM

To: Arena, Alexis

Subject: AncestryDNA

Subject to FRE 408

Ms. Arena,

I am David Cupar and am legal counsel on behalf of DNA Diagnostics Center, Inc. ("DDC.") As you know DDC is a world leader in DNA testing in a number of different fields, including DNA ancestry testing. DDC owns the rights to use its AncestryByDNA trademark which has been used in commerce since at least 2001, and which registered in 2008.

DDC received your August 8, 2012 e-mail. For the purpose of short-term compromise, DDC agrees not to use AncestryDNA for the near term as you requested. DDC, however, notes that Ancestry.com's date of first use is May 2012, which is years after the first use of the AncestryByDNA trademark.

DDC reserves the right, and provides Ancestry.com notice, to proceed with any action necessary to cancel or stop Ancestry.com's usage, or to seek legal resolution for any issue between the similarity of the two marks. This is especially true since Ancestry.com's first usage has only been recent, and the close similarities of the two marks.

Also, in accordance with Federal Rule of Evidence 408, you should not view this compromise in any way as an acquiescence of DDC's rights or that there are no legal issues between the parties regarding their trademark status or their rights.

Sincerely,
David B. Cupar

David B. Cupar
Member

T: 216.430.2036
F: 216.348.5474
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www.mcdonaldhopkins.com

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Clendening, Eric

From: Arena, Alexis
Sent: Monday, November 23, 2015 5:37 PM
To: Clendening, Eric
Subject: FW: AncestrybyDNA's expansion of goods and services

From: Arena, Alexis
Sent: Thursday, April 03, 2014 10:40 AM
To: 'Cupar, David B.'
Cc: LaVine, Jordan
Subject: RE: AncestrybyDNA's expansion of goods and services

Ok, thank you.

From: Cupar, David B. [<mailto:dcupar@mcdonaldhopkins.com>]
Sent: Thursday, April 03, 2014 10:39 AM
To: Arena, Alexis
Cc: LaVine, Jordan
Subject: RE: AncestrybyDNA's expansion of goods and services

Thanks, Alexis. Let me get back to you next week on this once I have a chance to discuss it with my client.

David B. Cupar
Member

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From: Arena, Alexis [<mailto:Alexis.Arena@flastergreenberg.com>]
Sent: Wednesday, April 02, 2014 5:19 PM
To: Cupar, David B.
Cc: LaVine, Jordan
Subject: RE: AncestrybyDNA's expansion of goods and services

Mr. Cupar,

I am following up on my email below, as I have not heard back from you. Please advise us if you no longer represent DNA Diagnostics Center, Inc., or whether you will be responding on its behalf.

Very truly yours,

Alexis Arena
Flaster/Greenberg PC

From: Arena, Alexis
Sent: Tuesday, March 04, 2014 1:35 PM
To: 'Cupar, David B.'
Cc: LaVine, Jordan
Subject: AncestrybyDNA's expansion of goods and services

Dear Mr. Cupar,

We corresponded over a year ago concerning the "AncestrybyDNA" and "AncestryDNA" trademarks. This office represents Ancestry.com Operations Inc. ("Ancestry.com"), owner of the "AncestryDNA" trademark. Ancestry.com owns a registration for "AncestryDNA" issued by the U.S. Patent and Trademark Office, Reg. No. 4,280,444, for use in connection with goods and services in Classes 42 and 45, specifically:

"Providing an online resource center featuring information in the field of genetic and family history and genealogy; provision of information in the field of personal historical data and information, genealogy and family history; provision of information resulting from educational research in the field of personal historical data and information, genealogy and family history; providing genealogical information, namely, family history information services in the nature of retrieving, recording and reviewing ancestral data via the Internet; consultancy, information and advisory services relating to personal historical data and information, genealogy and family history; providing an on-line computer database in the field of personal historical data and information, genealogy information and family history information; genealogical services, namely, genealogy and family history research, provided in person and via the Internet."

Ancestry.com has used its "Ancestry" family of trademarks in connection with the provision of information related to genealogy since at least as early as 1983. Ancestry.com owns a trademark registration for its "Ancestry" trademark in the U.S. Patent and Trademark Office that was issued in 1990 (Reg. No. 1,577,771). Further information about the scope of the goods and services provided by Ancestry.com under the "Ancestry" and "AncestryDNA" trademarks is available at Ancestry.com and AncestryDNA.com.

It recently came to Ancestry.com's attention that your client DNA Diagnostics Center, Inc. ("DDC"), filed a trademark application for "ANCESTRYBYDNA WORLDVIEW" on November 13, 2013, for use in connection with "providing genealogical information obtained via genetic testing." DDC's only existing trademark registration appears to be for use in connection with goods in Class 5 – genomic tests. The recent application for "ANCESTRYBYDNA WORLDVIEW" filed by DDC attempts to expand DDC's trademark use into Class 45. Additionally, our recent review of DDC's AncestrybyDNA.com website demonstrates that your client appears to be attempting to expand the goods and services it offers under the "AncestrybyDNA" trademark to more directly compete with the goods and services offered by Ancestry.com under the "AncestryDNA" trademark. We believe that such an expansion is likely to cause consumer confusion.

Accordingly, we request that DDC abandon its application to register "ANCESTRYBYDNA WORLDVIEW" in Class 45 and cease its expansion of goods and services offered under the "AncestrybyDNA" trademark. Ancestry.com is open to discussing how the parties' uses of the marks can continue to coexist in this matter, particularly to the extent that Ancestry.com's use of the mark in connection with goods and services in Classes 42 and 45 is distinguishable from DDC's use of the "AncestrybyDNA" mark in connection with goods and services Class 5. However, all rights are reserved.

Please feel free to contact me with any questions or concerns.

Alexis Arena
Flaster/Greenberg PC

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Clendening, Eric

From: Arena, Alexis
Sent: Monday, November 23, 2015 5:54 PM
To: Clendening, Eric
Subject: FW: Use of Ancestry.com's "AncestryDNA" trademark by AncestrybyDNA

From: Arena, Alexis
Sent: Wednesday, August 08, 2012 3:16 PM
To: 'ancestry@ancestrybydna.com'
Cc: LaVine, Jordan
Subject: Use of Ancestry.com's "AncestryDNA" trademark by AncestrybyDNA

AncestrybyDNA
One DDC Way
Fairfield, OH 45014

RE: Use of Ancestry.com's "AncestryDNA" trademark by AncestrybyDNA

Dear Sir or Madam:

We represent Ancestry.com Operations Inc. ("Ancestry.com") in connection with its intellectual property matters. As you likely know, Ancestry.com operates the websites www.ancestry.com and www.ancestrydna.com. Ancestry also owns a registration for its "ANCESTRY" and ANCESTRY.COM trademarks in the United States Patent and Trademark Office, Reg. No. 1,577,771, issued in 1990 and Registration No. 3,568,993, issued in 2009. Ancestry.com has also filed an application for registration of the trademark "AncestryDNA" in the United States Patent and Trademark Office, Application Serial No. 85/386,120, filed August 1, 2011, which is near registration.

Ancestry.com has become aware of your company's use of the "AncestryDNA" trademark in connection with online advertising, following Ancestry.com's use of the "AncestryDNA" trademark. We have attached an example of this advertising below. This recent change to the "AncestryDNA" trademark indicates an intent to infringe upon Ancestry.com's rights in the mark. AncestrybyDNA is using the "AncestryDNA" mark in a manner that is likely to cause confusion between its services and the services offered by Ancestry.com. This unauthorized use of Ancestry's "AncestryDNA" trademark constitutes trademark infringement and unfair competition under 15 U.S.C. §1125(a).

Accordingly, we ask that you confirm that AncestrybyDNA's use of "AncestryDNA" in online advertising will cease immediately. Please let us know whether you will agree to do so by August 17, 2012.

The offer of compromise contained in this letter is, of course, without prejudice to any action that may be necessary to protect the valuable rights of Ancestry.com in its trademarks in the future, including seeking injunctive relief, damages and attorneys' fees.

If you have any questions, please do not hesitate to contact us. Thank you.

Very truly yours,

Alexis Arena



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Suggested Sites

Web Slice Gallery

The Best Daily Deals in Seattle - AncestryDNA - A...

livingsocial

seattle

- today's deals
- nationwide deals
- families
- at home
- escapes
- adventures
- takeout & delivery
- shop new!
- how it works
- more cities



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